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OFFICE OF PETITIONS

In re Application of
Brian T. Chait et al.
Application No. 10/825,568
Filed: April 14, 2004
Attorney's Docket No. 01173.0003U3

ON PETITION

This is a decision on the petition filed November 26, 2004 under 37 CFR 1.53, in response to the "Notice to File Missing Parts" mailed October 14, 2004, which is treated under 37 CFR 1.182.

The petition is **DISMISSED**.

The application was filed April 4, 2004. However, on October 14, 2004, the Office of Initial Patent Examination mailed a "Notice" stating that the application had been accorded a filing date but that Figures 1B & 9B described in the specification appeared to have been omitted.

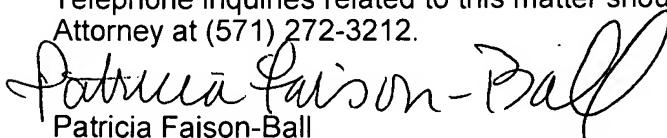
In response, the present petition was filed. Petitioner explains that no figures were missing on April 14, 2004. Instead, the pages labeled Figure 1 and Figure 9 actually contained two figures each, namely 1A and 1B and 9A and 9B but were not so labeled. Additionally, petitioner's submission of an itemized post card receipt is acknowledged but is not considered as persuasive. The postcard is itemized by the number of drawings sheets (10) and not by the number of figures. The postcard was not explicit that there were two figures on the first and ninth drawings sheets.

It is obvious from the petition however, that no figures were actually missing on April 14, 2004. Rather, the figures were mislabeled and as a result of the applicants' filing error, failed to identify the figures on the first and ninth sheets of drawings. However, the "Notice" mailed on October 14, 2004, was correct in stating that Figures 1B & 9B described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

The present petition was not necessitated by any error on the part of the Office and the \$400.00 petition was required upon filing of the petition. Thus, the \$400.00 petition fee will not be refunded.

The Office of Initial Patent Examination will be notified to process the application with the filing date of April 14, 2004 and to use the application papers filed on that date and the corrected pages of sheets 1 and 9 filed on November 26, 2004 with the petition.

Telephone inquiries related to this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.


Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions